

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**

**XL SPECIALTY INSURANCE CO. a/s/o
AHP CONSTRUCTION, LLC,**

Plaintiff,

v.

Case No. 2:21-cv-542

THE POOLE AND KENT CORPORATION,

Defendant.

COMPLAINT

Plaintiff, XL Specialty Insurance Company a/s/o AHP Construction, LLC, by and through its undersigned attorneys, as and for its Complaint, alleges upon information and belief as follows:

NATURE OF ACTION

1. Plaintiff brings this action to recover monetary damages resulting from the Defendant's breach of a contract for the provision of mechanical/HVAC and plumbing installation services.

JURISDICTION AND VENUE

2. Jurisdiction is predicated upon 28 U.S.C. 1332 in that the parties are completely diverse, and the controversy exceeds \$75,000. Venue is proper pursuant to the relevant contract between AHP Construction, LLC and the Defendant which provides for litigation in a court of competent jurisdiction in Virginia Beach, Virginia.

PARTIES

3. XL Specialty Insurance Company, a foreign corporation with its principal place of business located at 70 Seaview Avenue, Stamford, Connecticut, and at all relevant times was, and is, the subrogated builder's risk underwriter of AHP Construction, LLC.

4. AHP Construction, LLC (hereinafter “AHP”), is a foreign business entity with its principal place of business located at 249 Central Park Avenue, Suite 300, Virginia Beach, Virginia, and at all relevant times was, and is, engaged in the business of providing general contracting services for commercial construction projects. AHP Construction LLC’s sole member is AHP Holdings, Inc. which is a Virginia Corporation.

5. Upon information and belief, Defendant, The Poole and Kent Corporation (hereinafter “P&K”), was and is a corporation with its principal place of business located at 4530 Hollins ferry Road, Baltimore, Maryland, and at all relevant times was engaged in the business of providing commercial mechanical contracting services including, but not limited to, the installation of HVAC¹ systems, and related plumbing and piping.

FACTS

6. Plaintiff repeats and alleges each and every allegation set forth in paragraphs 1 through 6 as if set forth herein.

7. On or about August 13, 2018, AHP and P&K entered a contract for the provision of HVAC and plumbing services for a 13-story construction project known as the “Wills Wharf Building” (hereinafter ‘the Building’) in Baltimore, Maryland.

8. Specifically, AHP contracted with P&K for P&K to design, furnish and install a complete mechanical/HVAC system in the Building, including all piping, equipment, accessories, auxiliary materials, controls, and appurtenances.

9. Thereafter, on or about Monday, September 23, 2019, at approximately 5:00 a.m., AHP personnel arrived at the Building and heard water dripping on Level 1.

¹ HVAC stands for Heating, Ventilation, and Air Conditioning.

10. AHP personnel traced the source of the water and discovered it was escaping from a section of copper piping located in a mechanical room on the Building's 13th floor penthouse.

11. Upon investigation, it was determined that the section of copper piping had separated from another section of piping because it had been improperly installed at the joint by Defendant, P&K.

12. As a result of the improper installation, the copper piping separated from its joint and allowed water to escape and flow down and throughout the Building.

13. The release of water caused significant damage to the Building premises including, but not limited to, damage to the building's fixtures, electrical equipment, electrical bus ducts, and drywall.

14. Defendant, P&K, had a contractual duty, *inter alia*, to ensure the copper piping was properly and professionally installed.

15. Defendant, P&K, had a contractual duty, *inter alia*, to ensure the copper piping was installed in compliance with all applicable quality control standards, all regulatory requirements, including federal, state, and local codes, as applicable, and quality engineering and construction practices.

16. Defendant, P&K, had a contractual duty, *inter alia*, to ensure the copper piping was installed in accordance with manufacturer's recommendations and instructions.

17. Defendant, P&K, breached the aforementioned duties and obligations, as well as others, that were owed to Plaintiff, and which will be shown with specificity at trial.

18. The water intrusion into the Building and resulting damages were caused solely by the Defendant's material breach of its contractual duties and obligations without any breach on the part of the Plaintiff.

19. As a result of said breach of contract, Plaintiff has, by way of subrogation, sustained damages in the amount of at least \$280,000 plus interest, attorney's fees, and costs.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

1. That process in due form of law may issue against Defendant citing them to appear and answer all and singular the matters aforesaid;
2. That judgment may be entered in favor of Plaintiff against Defendant for the amount of Plaintiff's damages in the amount of at least \$280,000.00, plus interest, attorney's fees, costs, and the disbursements of this action; and
3. That this Court grant to Plaintiff such other and further relief as may be just and proper.

Respectfully submitted on September 24, 2021.

**XL SPECIALTY INSURANCE CO. a/s/o
AHP CONSTRUCTION, LLC,**

By: /s/ Marissa M. Henderson
Of Counsel

David N. Ventker (VSB No. 29983)
Marissa M. Henderson (VSB No. 44156)
Erin M. Yates (VSB No. 91463)
Ventker Henderson, PLLC
256 West Freemason Street
Norfolk, Virginia 23510
Telephone: 757.625.1192
Facsimile: 757.625.1475
dventker@ventkerlaw.com
mhenderson@ventkerlaw.com
eyates@ventkerlaw.com

and

Christopher M. Schierloh, Esq.
(*Pro Hac Vice* Forthcoming)
Casey & Barnett, LLC
305 Broadway, Suite 1202
New York, New York 10007
Telephone: 212.286.0225
cms@caseybarnett.com

*Counsel for XL Specialty Insurance Co. a/s/o
AHP Construction, LLC*